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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,563	05/30/2000	Kevin Peter Picott	1252.1051	1726

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EXAMINER

HARRISON, CHANTE E

ART UNIT

PAPER NUMBER

2628

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/580,563

Applicant(s)

PICOTT, KEVIN PETER

Examiner

Chante Harrison

Art Unit

2628

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 17,18,21 and 22.
Claim(s) objected to: 9-16.
Claim(s) rejected: 1-3,5-8,19-20,23-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


Kee M. Tung
Primary Examiner

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues (pp. 7, Para 7) Getzinger does not disclose a node receiving data from other nodes as he teaches a graph process controller (GPC) that schedules nodes for evaluation.

In reply, Getzinger specifically teaches graph structures pointing to node structures which in turn point to queue structures that identify associated source and sink nodes (col. 9, ll. 41-45). Getzinger's disclosure provides an example illustration of the graph processors data flow control the graph structure, which involves passing pointers between linked nodes (Table VIII). Therefore, Getzinger teaches nodes receiving data from other nodes.

Applicant argues (pp. 8, Para 1) the present invention does not require a central location controlling its operation; instead the decision of which algorithms to invoke is solely at the discretion of the individual node's evaluation process.

In reply, the above argument is moot, as Applicant fails to claim such a feature.

Applicant argues (pp. 8, Para 2) it is unobvious for one of ordinary skilled in the field of Getzinger to apply the techniques of Bianchini.

In reply, Getzinger discloses the arithmetic processors are used for single instruction and used in the graph scheduling and processing, col. 7, ll. 33-49. Bianchini discloses adaptive distributed diagnosis for node networks and in which a node is able to execute an algorithm in communication with a network (col. 2, ll. 25-29). It is therefore the interpretation of the Examiner that the invention of Getzinger allows for the data flow processing in which task are performed under a processing architecture and that Bianchini further allows for the second dependency node to execute the algorithm, and executing the algorithm as a pad of an evaluation of the second dependency node (col. 6, ll. 16-47).

Applicant argues (pp. 8, Para 4) Bianchini does not teach evaluation of an algorithm which is passed to the node from another node.

In reply, Bianchini teaches nodes implementing a testing algorithm and being able to pass an assignment signal to other nodes for those nodes to become the testing node (col. 2, ll. 35-45). Bianchini additionally teaches operation of the algorithm at each node, which results in the update of diagnostic information that is passed to other nodes (col. 5, ll. 45-50; col. 6, ll. 15-30; col. 7, ll. 25-30)

Applicant argues (pp. 8, Para 5) the adaptive DSD algorithm as taught by Bianchini has several major differences from the present invention.

In reply, Applicant's claims fail to incorporate the differences, which Applicant deems distinguishable. Thus, Applicant's argument is moot.

Applicant argues (pp. 9, Para 1) the present invention also provides the algorithm.

In reply, the present invention claims passing a pointer to the algorithm, which Getzinger discloses as provided in the above rationale. Thus, the Applicant's argument of providing an algorithm is moot.

Based on the above provided rationale the independent claims 1, 19, 20 and 23-26 do not patentably distinguish over the prior art..